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Central Administrative Tribunal  
Principal Bench

O.A.No.1040/97

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 27th day of February, 1998

Shri Ravijesh Rattan Sharma  
s/o late Shri R.R.Sharma  
r/o Qr. No.138/4/S-I  
M.B.Road  
New Delhi.

... Applicant

(By Shri George Parackin, Advocate)

Vs.

1. The Director  
Directorate of Estates  
Nirman Bhawan  
New Delhi.

2. Executive Engineer  
E C D No.5, CPWD  
Pushpa Bhavan  
New Delhi.

... Respondents

(By Shri R.V.Sinha, Advocate)

O R D E R(Oral)

This is a second round of litigation in the matter of ad hoc allotment of Government accommodation. The back ground of the case is that the applicant's father was allotted a quarter No.960, Type-C, Sector-VII, M.B.Road, New Delhi. The allottee died in harness on 13.09.1993. The allotment of the quarter was cancelled w.e.f. 13.9.1994 after allowing the concessional period of twelve months. The applicant, in the present case, was later appointed as a Lower Division Clerk in Central Public Works Department on compassionate grounds w.e.f. 27.9.1994. He had applied for allotment of a Type-II accommodation, on adhoc basis, under the relevant Rules. He had also submitted necessary affidavit from his mother as well as his own declaration that he did not own any house either in his name or of any other family member. The respondents however rejected the application for ad hoc allotment on the ground that according to their

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information the family owned a private property. Aggrieved by the said order of rejection, the applicant had approached this Tribunal in OA No.1695/95 which was disposed of on 2.5.1996. The operative part of the said order reads as follows:

"I, therefore, dispose of this application with the direction that the respondents will consider the request of the applicant for adhoc allotment as per rules on the basis that he or his family do not have a private house and to decide the same within a period of one month from the receipt of the copy of this order. There shall be no order as to costs."

2. The grievance of the applicant in the present case is that though the respondents, in compliance of the order of this Tribunal in OA No.1695/95, have allotted a Type-II quarter, this has been done by the respondents on the condition that the applicant will clear the dues on the basis of market/damage rent for the period he over stayed on in the Type - III quarter which was allotted to his late father. The applicant has already deposited 50% of the damage rent, i.e., approximately 24,000 and the allotment letter has been issued to him only after giving an undertaking that he will pay the remaining amount in ten equal instalments. The applicant has now come before this Tribunal with the prayer that the respondents be directed to charge only the normal rent and they may be directed to reimburse the excess amount charged from him.

3. The respondents have filed a reply. They state that under the Rules the applicant is liable to pay the damage rent for the period of over stay. They also submit that the applicant had already paid 50% of the amount and the remaining 50% will be paid in ten equal instalments. Therefore, there is no ground for interference.

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4. I have heard the counsel. As pointed out by the learned counsel for the applicant, the applicant's case for consideration for ad hoc allotment was delayed due to the respondents' wrong conclusion that the family owned private accommodation. This had forced the applicant to approach this Tribunal to obtain relief. By its order dated 2.5.1997, in OA No.1695/95 the Tribunal had concluded that the applicant's family did not own a private accommodation and the respondents were directed the case of the applicant on that basis. I find that this being the position, the delay in ad hoc allotment in favour of the applicant had been entirely due to the fact that the respondents had wrongly concluded, on the basis of insufficient evidence, that the applicant's family ~~had~~ owned a private accommodation which debbarred him from obtaining the ad hoc allotment. Since ultimately it was found that that was not so, the respondents cannot hold the applicant liable for the delay in the ad hoc allotment in his favour. In the circumstances, the applicant was only liable to pay the normal rent since in the normal course ad hoc allotment was to be regularised from the date of cancellation. I also note that this is not a case where the over stayed had occurred due to the late appointment of the applicant on compassionate ground or otherwise.


5. Accordingly the respondents are directed to recalculate the arrears of rent on the basis of normal rent for the period of over stayed of the applicant and if after such recalculation, it is found that there has been any over payment the excess amount will be

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reimbursed to the applicant within a period of three months from the date of the receipt of a copy of this order.

The OA is disposed of as above. No costs.

  
(R.K. AHOOJA)  
(MEMBER(A))

/rao/